

OCT. 13. 2005 2:10PM  
TO: USPTO

ZILKA-KOTAB, PC

NO. 0534 P. 1

# ZILKA-KOTAB

PC  
ZILKA, KOTAB & FEECE™

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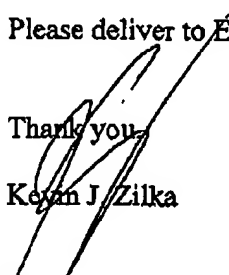
## FAX COVER SHEET

Date: October 13, 2005	Phone Number	Fax Number
To: Examiner Pyzocha		(571) 273-8300
From: Kevin J. Zilka		

Docket No.: NAI1P360/00.148.01

App. No: 09/823,438

Total Number of Pages Being Transmitted, Including Cover Sheet: 05

<p>Message:</p> <p>Please deliver to Examiner Pyzocha.</p> <p>Thank you,</p> <p> Kevin J. Zilka</p>
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☐ Original to follow Via Regular Mail ☒ Original will Not be Sent ☐ Original will follow Via Overnight Courier

\*\*\*\*\*  
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October 13, 2005

Practitioner's Docket No. NAIIP360/00.148.01

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jonathan Edwards et al.

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OCT 13 2005

Application No.: 09/823,438

Group No.: 2137

Filed: March 30, 2001

Examiner: Pyzocha, M.

For: VIRUS SCANNING PRIORITIZATION USING PRE-PROCESSOR CHECKING

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(37 C.F.R. § 1.191)

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed February 22, 2005, twice rejecting claims 1-5, 7-11, 17-23, 25-29, 35-41, 43-47, and 53-59.

## 1. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is *mandatory*;  
*Express Mail certification is optional.*)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

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37 C.F.R. § 1.10\*

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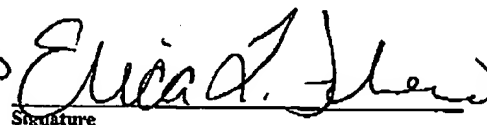
✓ facsimile transmitted to the Patent and Trademark Office, (703) 872-9300.

571-273-8300

Date:

10/13/05

Signature



Erica L. Farlow

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Notice of Appeal from the Primary Examiner to Board—page 1 of 2

**2. FEE FOR FILING NOTICE OF APPEAL**

Pursuant to 37 C.F.R. § 1.17(b), the fee for filing the Appeal Brief is:

Other than a small entity \$500.00

Notice of Appeal fee due \$0.00

**3. EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**4. TOTAL FEE DUE**

The total fee due is:

Notice of Appeal fee \$0.00 (paid previously on April 28, 2005)

**TOTAL FEE DUE \$0.00**

**5. FEE PAYMENT**

Applicant believes that only the above fees are due in connection with the filing of this paper because the Notice of Appeal fee was paid with a previous submission. However, the commissioner is authorized to charge any fees that may be due to deposit account 50-1351 (Order No. NAI1P360).

A duplicate of this transmittal is attached.

**6. FEE DEFICIENCY**

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAI1P360).

Reg. No.: 41,429  
Tel. No.: 408-971-2573  
Customer No.: 28875

\_\_\_\_\_  
Signature of Practitioner  
Kevin J. Zilka  
Zilka-Kotab, PC  
P.O. Box 721120  
San Jose, CA 95172-1120  
USA

Notice of Appeal from the Primary Examiner to Board—page 2 of 2



Practitioner's Docket No. NAI1P360/00.148.01

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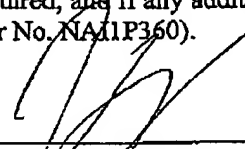
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